IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE V.RAMKUMAR

TUESDAY, THE 16TH OCTOBER 2007 / 24TH ASWINA 1929

Crl.Rev.Pet.No. 3653 of 2007()

CMP.3008/2007 of ADDL.CHIEF JUDICIAL MAGISTRATE (E & O), ERNAKULAM

.....

REVN. PETITIONER: PETITIONER/ACCUSED NO.3

K.T.CHARLEY, S/O. THAVUNNY,
KANJIRATHUNGAL HOUSE, THEKKEPURAM,
KUNNAMKULAM, THRISSUR DISTRICT.

BY ADV. SRI.O.V.MANIPRASAD

RESPONDENTS: RESPONDENT/COMPLAINANT

SENIOR INTELLIGENCE OFFICER,
DEPARTMENT OF REVENUE INTELLIGENCE, ERNAKULAM.

BY PUBLIC PROSECUTOR SRI. K.S. SIVAKUMAR

THIS CRIMINAL REVISION PETITION HAVING COME UP FOR ADMISSION ON 16/10/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

V. RAMKUMAR, J.

* * * * * * * * * * * * * * * * * * * *

Crl.R.P. NO. 3653 of 2007

* * * * * * * * * * * * * * * * * * * *

Dated: 16th October 2007

ORDER

The revision petitioner who is the 3rd accused in O.R. No. 33 of 2004-05 of DRI, Kochi of the Chief Judicial Magistrate Court (Economic Offences), Ernakulam for an offence punishable under Sec. 135 (1) of the Customs Act was granted bail by this Court as per Annexure -I order dated 13-05-2005 in B.A. 3368 of 2005. One of the bail conditions was to execute a bond for Rs. 50,000/- (Rupees fifty thousand only) with two solvent sureties. One Francis, who is one of the sureties, subsequently sought a return of his title deed. That application was dismissed by the Addl. Chief Judicial Magistrate (Economic Offences), Ernakulam stating that O.R. 33/2004-05 is still pending before that Court and final report has not been filed . Thereafter, the petitioner who is the 3rd accused filed Crl.M.P. 3008 of 2007 before the Magistrate to release the surety, namely, Francis and to permit the petitioner to deposit the bond amount in lieu of the surety. According to the revision petitioner, this petition was necessitated since the surety expressed unwillingness to continue as such in view of the dismissal of his application for return of the title deed. The learned Magistrate, as per Annexure - II order dated 24-7-2007 dismissed C.M.P. 3008 of 2007 as follows:-

> *"This is a petition filed by the 3rd accused to substitute the surety Francis.*
>
> *Heard both sides. The petition is not maintainable. It is dismissed"*

2. I do not find any good reason as to why the Magistrate rejected the prayer of surety Francis for return of his original title

deed produced before the Court while enlarging the revision petitioner on bail. Insistence on the title deed is only to ascertain the fact as to whether the surety is having a valid title to the property offered as security. Once that is ascertained, the Court need not retain the title deed. The learned counsel for the respondent submitted that if the title deed of Francis is returned the surety is willing to continue as such. Such being the position, the court below is directed to return the original title deed produced by Francis, the surety, after retaining a photocopy of the same notwithstanding the order dated 3-7-2007 rejecting the claim of Francis and notwithstanding the impugned order dated 24-7-2007.

This Revision is disposed of as above.

V. RAMKUMAR,
(JUDGE)

ani.